



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/806,901  | 03/23/2004  | Jason T. Hensley     | F02.2-11307-US01      | 2403             |
| 490   | 7590        | 05/08/2006           | EXAMINER              |                  |
| VIDAS, ARRETT & STEINKRAUS, P.A.<br>6109 BLUE CIRCLE DRIVE<br>SUITE 2000<br>MINNETONKA, MN 55343-9185 |             |                      | EWALD, MARIA VERONICA |                  |
|   |             |                      | ART UNIT              | PAPER NUMBER     |
|   |             |                      | 1722                  |                  |

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/806,901

Applicant(s)

HENSLEY ET AL.

Examiner

Maria Veronica D. Ewald

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/14/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

13. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 9 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 9 recites the limitation "...positioned to said side wall" on page 4; however, there is insufficient antecedent basis for this limitation in the claim. The term side wall should be corrected to state "side form."

### ***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1 – 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (U.S. 5,393,033). Wilson teaches a machine for casting concrete panels on a casting

Art Unit: 1722

bed including a bottom and a pair of parallel side forms (items 12 and 24 – figure 4), the improvement comprising: linkage members pivotally linking said side forms to a fixed position to allow up and down movement which keeps the side forms vertical at all times with respect to said casting bed (column 3, lines 15 – 20, 25 – 35, 45 – 55); a mechanism to fix the side forms at one of a plurality of heights with respect to said casting bed (column 3, lines 55 – 65); and motive force mechanism linked to said side forms for driving said side forms up and down (column 3, lines 55 – 65; column 5, lines 30 – 38, 40 – 50); wherein said motive force mechanism is hydraulic (column 5, lines 1 – 15, 40 – 50).

Claims 1, 6 – 7 and 9 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Vappula (U.S. 2003/0189158 A1). Vappula teaches a machine for casting concrete panels on a casting bed including a bottom and a pair of parallel side forms (paragraphs 0001 and 0011), the improvement comprising: linkage members pivotally linking said side forms to a fixed position to allow up and down movement which keeps the side forms vertical at all times with respect to said casting bed (paragraphs 0017 – 0018); a mechanism to fix the side forms at one of a plurality of heights with respect to said casting bed (paragraphs 0002, 0018); and motive force mechanism linked to said side forms for driving said side forms up and down (paragraphs 0019 – 0020); wherein, said mechanism to fix the height of said side forms includes a plurality of spaced openings such that said side forms may be set at one of a plurality of different heights by securing the linkage members relative to the side forms by bolt members to said

Art Unit: 1722

spaced openings (paragraphs 0019 – 0020); wherein, said plurality of spaced openings are positioned to said side wall such that said side wall may be fixed to a set height by placing bolt members thereinto (paragraphs 0018 – 0020); wherein said plurality of spaced openings are positioned within said linkage members such that bolt members passed therethrough will fix the side forms to a set height based on the hole so fixed (paragraphs 0019 – 0020); wherein the mechanism includes an electromagnet positioned to provide a holding force to keep the side forms at a desired height once positioned (paragraph 0006).

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 – 5, 11 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Cashion (U.S. 4,289,293). Wilson teaches a machine for casting concrete panels on a casting bed, said casting bed including a bottom and a pair of opposing parallel side forms, the improvement comprising: each of said side forms being attached to said casting bed by linkages that allow said side forms to move up, down, forward and backward and not laterally such that said side forms may be raised and lowered in a vertical orientation (column 3, lines 15 – 20, 25 – 35, 45 – 55); wherein said side form linkages allow the side form to be fixed at more than one point to create a

Art Unit: 1722

variable height casting bed (column 3, lines 25 – 35, 45 – 60) wherein said side form linkages include linkage arms connected to said side forms and to a fixed point (figure 5; column 3, lines 50 – 60); wherein said linkages provide the function of vertical movement of said side forms and allow the side forms to be fixed at more than one point (column 2, lines 1 – 10, 38 – 43) and wherein said side forms include a mechanism to lock the side form at any of a plurality of different heights (column 2, lines 38 – 42). Wilson, however, does not teach that the casting bed is movable along a set of rails, though it is known to one of ordinary skill in the art that casting beds can be of a fixed type, immovable and mounted firmly on a structure to the ground, or movable, such that it is mounted on a track or rail.

For example, in a method to cast concrete structures, Cashion teaches that the casting bed can be fixed to the ground via a concrete base or movable on transverse tracks (column 5, lines 45 – 50, 60 – 63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to configure the apparatus of Wilson such that it can be mounted on a rail system and thus, allow the casting bed to be movable, as shown by Cashion.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson in view of Bryja, et al. (U.S. 6,793,476). Wilson teaches the characteristics previously described but do not teach that there are air bladders used to hold the side forms in place.

Art Unit: 1722

In a method to age brick, Bryja, et al. teach the use of a work table and an embossing device (abstract). The embossing device is controlled via an air bladder, which is inflated to move a die support downward on the face of the brick. Furthermore, the use of an air bladder effects vibration isolation of machinery (paragraph 0035).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to configure the apparatus of Wilson with the air bladder of Bryja, et al., to hold the position of the side form in place and also absorb any vibrational movements of the apparatus, while ensuring that the side form remains in place while the concrete is being cast.


### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria Veronica D. Ewald whose telephone number is 571-272-8519. The examiner can normally be reached on M-F, 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1722

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
JOSEPH S. DEL SOLE  
PRIMARY EXAMINER  
5/3/06

MVE